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E16

| APPLICATION NO.           | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------|-------------|----------------------|---------------------|------------------|
| 09/325,599                | 06/03/1999  | SERGE DE GHELDERE    | F8-5460             | 2998             |
| 7590                      | 01/21/2004  |                      | EXAMINER            |                  |
| DENISE M. SEREWICZ        |             |                      | CINTINS, IVARS C    |                  |
| BAXTER INTERNATIONAL INC  |             |                      | ART UNIT            | PAPER NUMBER     |
| ROUTE 120 AND WILSON ROAD |             |                      | 1724                |                  |
| PO BOX 490                |             |                      |                     |                  |
| ROUND LAKE, IL 60073      |             |                      |                     |                  |
| DATE MAILED: 01/21/2004   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |
|------------------------------|--------------------------------------|---|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/325,599 | <b>Applicant(s)</b><br>DE GHELDERE ET AL. |
|                              | <b>Examiner</b><br>Ivars C. Cintins  | <b>Art Unit</b><br>1724                   |
|                              |                                      |   |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 14 October 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 25-29,31,33,34 and 37-41 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 25-29,31,33,34 and 37-41 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-29, 31, 33, 34 and 37-41 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 96/40857. The reference discloses (see Figs. 20B and 20C; and page 15, lines 22-30) a fluid processing set for use in photoactivation treatment of a biological fluid, which processing set includes a plurality of containers connected together with openable flow paths. This reference further teaches that the first container is made of a material which is translucent to light in the photoactivating wavelength range (see page 84, lines 10-11); and also teaches providing an adsorbent material for removing excess photochemical agent and photoactivation by-products from the biological fluid (see page 84, lines 15-20). This reference also disclosed that the adsorbent could be housing in a separate treatment container (see page 75, lines 4-6) as required by claim 28, or within a semipermeable pouch in the storage container (see page 84, lines 3-4; and page 201, lines 12-14) as required by claim 29. This reference further teaches providing the disclosed containers with a light impermeable (e.g. foil) overwrap (see page 97, line 14) as required by claims 37 and 38; and also teaches providing a holder (i.e. housing 100) for the disclosed containers (see Fig. 1; and page 115, line 12) as required by claims 40 and 41.

Applicant's arguments filed October 14, 2003 have been noted and carefully considered, but no longer appear to be relevant in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (571) 272-1156.

The centralized facsimile number for the USPTO is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0987.

*Ivars Cintins*  
Ivars C. Cintins  
Primary Examiner  
Art Unit 1724

I. Cintins  
January 12, 2004